

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TIMOTHY WADE JONES,

Plaintiff,

v.

Civil Action No. 2:07cv6

**DR. J. HAMMOND, DR. J. TENNANT,
DR. T. WARREN, DR. BRANSON,
KIMBERLY WHITE, AL HAYNES,
HARRELL WATTS, A. GERBER,**

Defendants.

ORDER

It will be recalled that on October 31, 2007, Magistrate Judge Kaull filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Plaintiff filed his objections on November 8, 2007.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff in his Complaint, filed pursuant to 42 U.S.C. §1983, wherein Plaintiff alleges that he has been denied proper mental health treatment while in the custody of the Bureau of Prisons, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Upon review of the Plaintiff's objections, the Court finds that the Plaintiff has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation

accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaull's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action proceed in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's claims against Defendants Kimberly White, Al Haynes, Harrell Watts, and A. Gerber be, and the same hereby are, **DISMISSED WITH PREJUDICE** for failure to state a claim, and that said Defendants be **STRICKEN** from the docket of the above-styled civil action as defendants. It is further

ORDERED that the Clerk shall enter judgment for Defendants White, Haynes, Watts and Gerber. It is further

ORDERED that the Plaintiff's Complaint against the remaining Defendants, namely Dr. J. Hammond, Dr. J. Tennant, Dr. T. Warren, and Dr. Branson, shall be served on said Defendants. In that regard, the United States Marshal Service is hereby directed to serve a copy of the complaint, a completed 60 day summons, and a completed Marshal 285 Form on Defendants Hammond, Tennant, Warren and Branson. It is further

ORDERED that, pursuant to Rule 4(i) of the Federal Rules of Civil Procedure, a copy of the complaint and a completed summons shall be sent to the United States Attorney for the Northern District of West Virginia, and the Attorney General of the United States in Washington, D.C., via certified mail, return receipt requested. It is further

ORDERED that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein and to the United States Marshal Service.

ENTER: February 6, 2008

/s/ Robert E. Maxwell
United States District Judge